

REMARKS**Claim Amendments**

Claims 57, 59, 61, 63, 65, 66, 68 and 70-73 have been amended. Claim 74 is being canceled, as it is drawn to a non-elected invention. Applicants reserve the right to pursue the subject matter of claim 74 in a divisional application.

Claims 57 and 71 have been amended to substitute “unnatural” for “synthetic”. Support for the amendment can be found, for example, at page 4, lines 15-17 and page 8, line 28 through page 9, line 5.

Claim 61 has been amended to correct the structural formula. Support for the amendment can be found at page 52, line 20.

Claims 63 and 68 have been amended to recite “N,N-dialkyl-O-methylphosphoramidite” instead of “phosphoramidite”, and “N,N-dialkyl-O-(2-cyanoethyl)phosphoramidite” instead of “2-cyanoethylphosphoramidite”. The recitation of “2-cyanoethylphosphoramidite” in claims 65 and 70 has been amended in the same manner. Support for the amendment can be found in Gait, which was incorporated by reference at page 50, lines 36-38. In Gait, passages providing support include the paragraph bridging pages 38 and 39 and the first two paragraphs on page 81.

Claim 71 has been amended to further clarify that the activated phosphorus group is attached to the C-3' or C-5' oxygen atom that was not reacted with the photoremovable protecting group.

Claims 59, 61, 66, 70, 72 and 73 have been amended to correct typographical errors.

No new matter has been added.

Amendments to the Specification

The specification has been amended to provide literal support for the subject matter from Gait, incorporated by reference at page 50, lines 36-38, which is recited in the claims. Applicants hereby assert that the matter added to the specification is not new matter, as it is

contained in a document incorporated by reference. As evidence of this assertion, Applicants are enclosing relevant passages from Gait herewith as Exhibit A.

Rejection of Claims 71-73 Under 35 U.S.C. 112, First Paragraph

Claims 71-73 are rejected under 35 U.S.C. 112, first paragraph, as allegedly failing to comply with the written description requirement. The Examiner states that there is no description in the specification of a method in which a photoremovable protecting group is attached to a nucleoside before attachment of an activated phosphorus group.

Gait, which is incorporated by reference at page 50, lines 36-38 of the specification, provides support for claims 71-73. In particular, Figures 2 and 4, which are attached as part of Exhibit A, show the preparation of a compound where a photocleavable protecting group is attached to a nucleoside before an activated phosphorus group is attached. Because of the subject matter incorporated by reference, claims 71-73 are fully supported by the specification as filed. The specification has been amended to provide literal support for these claims. Thus, claims 71-73, as amended, comply with the written description requirement. Reconsideration and withdrawal of the rejection are respectfully requested.

Rejection of Claims 57-70 Under Obviousness-Type Double Patenting

Claims 57-70 are rejected under obviousness-type double patenting over claims 1-37 and 39 of U.S. Patent No. 5,753,788. Claims 57-65 are rejected under obviousness-type double patenting over claims 5, 7-13 and 16-21 of U.S. Patent No. 5,889,165. Claims 57-70 are rejected under obviousness-type double patenting over claims 1-11 of U.S. Patent No. 6,310,189.

A Terminal Disclaimer is being provided herewith, in which the owner of 100% interest in the present application, Affymetrix, Inc., hereby disclaims the terminal part of the statutory term of any patent granted on the present application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173, as presently shortened by any terminal disclaimer, of prior U.S. Patent Nos. 5,753,788, 5,889,165 and 6,310,189.

Applicants submit that the Terminal Disclaimer obviates the obviousness-type double patenting rejection. Withdrawal of the rejection is respectfully requested.

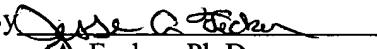
CONCLUSION

In view of the above amendments and remarks, Applicants believe the pending application is in condition for allowance.

If a fee is due with this response, please charge our Deposit Account No. 18-1945, from which the undersigned is authorized to draw, under Order No. AFMX-P01-042.

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Respectfully submitted,

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